



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 2, 1998

Mr. Thomas Ricks
University of Texas Investment Management Company
210 West Sixth Street, Second Floor
Austin, Texas 78701

OR98-2917

Dear Mr. Ricks:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120100.

The University of Texas Investment Management Company ("UTIMCO") received a request for certain information relating to the "Alternative Illiquid Investments of the University of Texas Investment Management Company and any predecessor organizations since inception" (hereinafter "the Program"). You indicate that you are making available to the requestor much of the requested information. However, you seek to withhold from the requested information "certain data relative to the returns of the Program that could reveal which individual investment was matched with the specific cash flows," (hereinafter "Return Information"). You claim that the Return Information is excepted from required disclosure under sections 552.104 and 552.110 of the Government Code. We have considered the exceptions you claim and reviewed the information at issue.

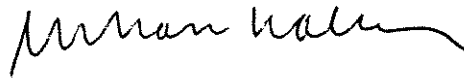
Section 552.104 excepts from required public disclosure "information that, if released, would give advantage to a competitor or bidder." In order for a governmental body to be deemed a competitor for purposes of section 552.104, it must have a specific market place interest that would be harmed by disclosure. A general allegation of a remote possibility of harm is not sufficient to invoke section 552.104. Open Records Decision No. 593 (1991).

In Open Records Letter No. 97-1776 (1997), we concluded that UTIMCO and the University of Texas Board of Regents with whom UTIMCO contracts have a common purpose and objective such that an agency-type relationship is created. This office has also previously determined that the University of Texas System may be considered a "competitor" for purposes of section 552.104. Open Records Letter No. 92-613 (1992).

Having reviewed the documents and your arguments that releasing this information will bring about specific harm, we conclude that you may withhold the Return Information under section 552.104. The remaining portions of the requested information must be released.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue. You need not ask this office for additional rulings regarding the submitted records, but this ruling should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



William Walker
Assistant Attorney General
Open Records Division

WMW/ch

Ref: ID# 120100

Enclosures: Submitted documents

cc: Mr. Stephen Lisson
Initiate!
P.O. Box 2013
Austin, Texas 78768-2013
(w/o enclosures)

¹Because we are able to make a determination under section 104, we do not address your additional argument against disclosure.